IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CROSS OBJECTION No 3 of 2002
in
FIRST APPEALNo 147 of 2000
with
CROSS OBEJCTION No. 27 of 2001
in
FIRST APPEAL No. 149 of 2000
with
CROSS OBJECTION No. 28 of 2001
in
FIRST APPEAL No. 150 of 2000
with
CROSS OBJECTION No. 29 of 2001
in
FIRST APPEAL No. 152 of 2000
with
CROSS OBJECTION No. 30 of 2001
in
FIRST APPEAL No. 153 of 2000
with
CROSS OBJECTION No. 31 of 2001
in
FIRST APPEAL No. 154 of 2000
with
CROSS OBEJCTION No. 32 of 2001
in
FIRST APPEAL No. 155 of 2000
with
CROSS OBJECTION No. 332 of 2001
in
FIRST APPEAL No. 148 of 2000
And
CROSS OBJECTION No 04 of 2002
in
FIRST APPEAL No. 151 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

MANAJI PUNJAJI THAKORE

Appearance:

MR AJ PATEL for Appellants - original claimants

MR AD OZA, GP for Executive Engineer, Narmada Project Division No.II

MS MANISHA LAVKUMAR, AGP for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

and

MR.JUSTICE J.R.VORA

Date of decision: 01/05/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. Heard. These Cross Objections under Order 41 Rule 22 of the Code of Civil Procedure have been filed by the claimants in the above referred Appeals. It is stated by Mr. J.M. Patel for Mr. A.J. Patel for the claimants in these Cross Objections that these Cross Objections are confined and restricted only to the interest on solatium which has not been awarded in the impugned award passed by the Reference Court in the Reference under Section 18 of the Land Acquisition Act, 1984 (hereinafter referred to as the "Act").

2. Notification under Section 4(1) of the Act came to be published in respect of the lands situated at village Sabaspur, Taluka Kalol, District Mehsana, for the acquisition of the lands of the claimants for public purpose, namely, constructing Narmada Main Canal.

Declaration under Section 6 of the Act came to be published on 19.10.1990. The claimants filed their objections to the acquisition. The Special Land Acquisition Officer pronounced the award under Section 11A of the Act granting compensation at the rate of Rs. 3 per sq. meter. The claimants being aggrieved with the amount of compensation awarded by the Special Land Acquisition Officer, requested for making a Reference. Whereupon the Special Land Acquisition Officer made a Reference to the District Court, Mehsana, under Section 18 of the Act. The claimants had demanded compensation all through out at the rate of Rs. 100/- per sq. meter. The Reference Court considering the evidence on record, granted additional compensation at the rate of Rs. 45/- per sq. meter i.e. Rs. 48/- per sq. meter in all.

3. The State being dissatisfied and aggrieved with the amount of compensation, redetermined by the Reference Court under Section 18 of the Act filed aforesaid First Appeals for reducing the compensation determined by the Reference Court, whereas the Claimants filed Cross Objections to the award.

4. As far as the First Appeals under Section 54 of the Act read with Section 96 of the Code of Civil Procedure preferred by the State Government are concerned, by common judgment and order dated 16.1.2001 the came to be dismissed by this Court.

5. The claimants within one month of the service/receipt of the notice issued in the aforesaid First Appeals filed the present Cross Objections, but for some reasons, the Cross Objections were not listed before the Division Bench which disposed of the appeals preferred by the State Government by common order and judgment dated 16.1.2001, and as the Cross Objections preferred by the Claimants were left out to be considered and decided, these Cross Objections are being heard and decided by this common judgment and order.

6. As pointed out, it is stated by Mr. Patel, learned counsel for the claimants that these Cross Objections are restricted only against the non-grant of interest on solatium. The solatium has already been awarded by the Reference Court. In the operative portion of the impugned judgment, the Reference Court has refused grant of interest on the award of the additional amount and also the interest on solatium under Section 23(2) of the Act.

7. In the case of SUNDER vs. UNION OF INDIA,

reported in (2001) 7 SCC 211 it has been held by the Supreme Court that the claimants would be entitled to interest on the aggregate amount of compensation including solatium. Ms. Manisha Lavkukar, learned AGP is unable to dispute the submission on behalf of the claimants in this regard claiming interest on solatium.

8. In view of the principle enunciated in the case of Sunder vs. Union of India (supra), the claimants would be entitled to the interest on solatium from the date of the application till realisation over and above the other statutory benefits granted under the impugned award by the Reference Court and Cross Objections allowed accordingly.

9. In the result, the Cross Objections are allowed to the aforesaid extent with no order as to costs.

(N.G. Nandi, J.)

(J.R. Vora,J.)

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